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Attorneys for Plaintiff and the Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Loretta Williams, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

**DDR Media, LLC, and Lead Intelligence,
Inc.**

Defendants.

Case No. 3:22-cv-03789-SI

**JOINT CASE MANAGEMENT
STATEMENT**

Judge: Hon. Susan Illston

Plaintiff Loretta Williams (“Plaintiff” or “Williams”) and Defendants DDR Media, LLC d/b/a Royal Marketing Group (“Royal Marketing”) and Lead Intelligence, Inc. d/b/a Jornaya (“Jornaya”, and collectively with -Royal Marketing, “Defendants”) jointly submit this Joint Case Management Statement pursuant to the Standing Order for All Judges of the Northern District of California, Rule 26(f) of the Federal Rules of Civil Procedure, and Civil Local Rule 16-9.

1 1. Jurisdiction & Service

2 Plaintiff's Position: This Court has subject matter jurisdiction under the Class Action
3 Fairness Act, 28 U.S.C. § 1332(d), *et seq.* ("CAFA"), because the class consists of over 100
4 people, at least one member of each class is from a State other than the state of the Defendants,
5 and the amounts in controversy are over \$5,000,000. Further, none of the exceptions to CAFA
6 jurisdiction apply.

7 Defendants' Position:

8 *Royal Marketing's Position:* Plaintiff's named the incorrect party and agreed to correct
9 same. DDR Media, LLC, -- at all relevant times was t/d/b/a Royal Marketing is currently waiting
10 to be served properly under the correct tradename Royal Marketing Group. Plaintiff has agreed to
11 amend the Complaint.

12 *Jornaya's Position:* Jornaya does not dispute that it was properly served and is not aware
13 of any party not yet served. Jornaya does not currently dispute this court's jurisdiction. Jornaya
14 disputes DDR Media's position regarding the tradename under which it conducted business, and
15 reserves all rights, claims, and defenses.

16
17 2. Facts

18 Plaintiff's Position: This case challenges Defendants' violations of the California Invasion
19 of Privacy Act, Cal. Penal Code 631 ("CIPA"). Specifically, Plaintiff Loretta Williams
20 ("Williams" or "Plaintiff") alleges that Defendants violated CIPA by unlawfully intercepting and
21 recording her communications on Royal Marketing's website absent any consent, thereby
22 violating CIPA's prohibition of wiretapping and California's constitutional right to privacy.
23 Accordingly, Plaintiff, on behalf of herself and a Class of similarly situated individuals, brings
24 this action to put an end to Defendants' serial violations of CIPA.

25 Defendants' Position:

26 *Royal Marketing's Position:* Royal Marketing denies the Plaintiffs' allegations and as will
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28

1 be further articulated in its response to the First Amended Complaint, pending filing of the
 2 amended complaint and service by the Plaintiff. Royal Marketing is a customer of Jornaya. This
 3 action arises from the implementation of Jornaya's Create JavaScript software on its website
 4 snappyrent2own.com.

5 *Jornaya's Position:* Plaintiff alleges that DDR Media LLC's use of Jornaya's Javascript
 6 on its website resulted in the unlawful interception and recording of her communications without
 7 her consent. Jornaya denies that it violated CIPA or acted unlawfully.

8 9 3. Legal Issues

10 Plaintiff's Position:

- 11 (1) Whether Jornaya unlawfully intercepted Plaintiff's communications on the Royal
 12 Marketing website;
- 13 (2) Whether Jornaya obtained consent from all parties to intercept and record the
 14 communications at issue;
- 15 (3) Whether Royal Marketing aided, agreed, or conspired with Jornaya to unlawfully
 16 intercept, read, or learn the contents of Plaintiff's communications;
- 17 (4) Whether the proposed class can be certified as a class action in accordance with
 18 Federal Rules of Civil Procedure 23;
- 19 (5) Whether Plaintiff and the other members of the Class are entitled to statutory
 20 damages; and
- 21 (6) Whether Defendants should be enjoined from intercepting and recording future
 22 communications on the Royal Marketing website absent any consent.

23 Defendants' Position:

24 *Royal Marketing's Position:* Royal Marketing is unaware of Jornaya's proprietary systems
 25 and processes, utilized them pursuant to the terms and conditions they establish, and – if liable of
 26 anything, is entitled to Indemnity by them. Moreover, Royal Marketing contests the requisite
 27

1 number of putative Plaintiffs as to them given this was – essentially, a one-off use of the subject
2 Platform.

3 *Jornaya's Position:* Jornaya does not dispute Plaintiff's identification of the key legal
4 issues in this action. Jornaya does not agree that it owes indemnification to DDR Media LLC.

5 4. Motions

6 There is a pending Motion to Dismiss the First Amended Complaint.

7
8 Plaintiff's Position: Plaintiff anticipates moving for class certification following class
9 discovery and potentially moving for summary judgment in favor of herself and the class
10 members. Discovery motions may also be potentially necessary.

11 Defendants' Position:

12 *Royal Marketing's Position:* Royal Marketing: Defendant reserves the right to file discovery
13 motions as necessary.

14 *Jornaya's Position:* Jornaya anticipates opposing class certification. Jornaya may move for
15 summary judgment or summary adjudication and may also bring discovery motions, if any are
16 necessary.

17
18 5. Amendment of Pleadings

19 The parties request a deadline to amend pleadings to be set following a reasonable period
20 of discovery to ascertain whether any additional culpable parties exist. A deadline of 120 days
21 following commencement of discovery regarding class related issues would suffice.

22
23 6. Evidence Preservation

24 The Parties certify that they have reviewed the ESI Guidelines. During the Rule 26(f)
25 conference, counsel for the Parties discussed the potential ESI implicated in this case. The Parties
26 confirm that any relevant ESI is being appropriately preserved. Should discovery proceed, the
27

Parties are committed to working together to reduce the costs of ESI.

Royal Marketing has requested a Stop, Hold, Warn as to those documents and materials Plaintiff believes are relevant specifically from them because its' role in this – other than availing itself to co-defendants platforms, services, is nebulous.

7. Disclosures

The parties have agreed to exchange initial disclosures pursuant to the requirements of Fed. R. Civ. P. 26 within fourteen (14) days following the issuance of the Rule 16 Scheduling Order and a ruling on the pending Motion to Dismiss.

The Parties agree that, in the interests of conserving the parties' and judicial resources, all discovery, including initial disclosures, should await resolution of Defendants' motion(s) to dismiss and any subsequent amendment of the complaint.

8. Discovery

No discovery has been served thus far and the parties have not identified any discovery disputes. Pursuant to Fed. R. Civ. P. 26(f), the parties submit the following discovery plan:

(1) Subjects on which discovery may be needed. Discovery will be needed on the allegations asserted in the first amended complaint and the legal issues set forth above.

(2) Issues relating to disclosure or discovery of electronically stored information. If certain discovery is to be produced in electronic form, the parties have agreed to meet and confer, as necessary, to resolve any issues concerning electronic discovery as they arise.

(3) Issues relating to claims of privilege or of protection as trial-preparation material. The parties agree to prepare and produce a privilege log with respect to all documents, electronically stored information, things and oral communications withheld on the basis of a claim of privilege or work product protection except the following: written and oral communications between a party and its counsel after commencement of the action and work product material created after commencement of the action.

1 **(4) Changes in limitations on discovery.** The parties do not propose any changes to the
2 limitations on discovery imposed under the Federal Rules of Civil Procedure or the Civil Local
3 Rules.

4 **(5) Orders that should be entered by the court.** The parties anticipate that a protective
5 order governing the treatment of confidential information will be required and will submit a
6 proposed order in the form of the Northern District's model order.

7
8 9. Class Actions

9 The Parties set forth their positions with respect to discovery in Section 17 below.

10
11 10. Related Cases

12 The parties are unaware of any pending cases related to this action.

13
14 11. Relief

15 Plaintiff's Position: Plaintiff seeks statutory damages for Defendants alleged violations of
16 CIPA, which provides for \$5,000 per violation, together with injunctive relief and attorneys' fees
17 and costs. Damages will be calculated depending upon the number of class members and the
18 number of violations following discovery.

19 Defendants' Position:

20 *Royal Marketing's Position:* Royal Marketing contends it has no liability, and that any
21 liability, if any, found herein is co-defendants.

22 *Jornaya's Position:* Jornaya denies that Plaintiff and the putative class are entitled to the
23 relief sought in the complaint. Jornaya also denies that it owes any indemnification to DDR
24 Media LLC.

1 12. Settlement and ADR

2 The Parties have complied with ADR L.R. 3-5. The Parties are scheduled to participate in
3 a private mediation session on August 14, 2023.

4
5 13. Consent to Magistrate Judge For All Purposes

6 All Parties do not consent to have a magistrate judge conduct all further proceedings.

7
8 14. Other References

9 The parties agree that the case is not suitable for reference a special master or the Judicial
10 Panel on Multidistrict Litigation.

11
12 15. Narrowing of Issues

13 The Parties agree, to the extent necessary, to explore facts that can be proven by
14 stipulation at the appropriate time.

15
16 16. Expedited Trial Procedure

17 The Parties do not believe that this case is suitable for an expedited trial.

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19 17. Scheduling

20 Plaintiff's and Defendant Royal Marketing's Position: Discovery should proceed with
21 respect to both class certification and merits issues for a period of ten (10) months. The first eight
22 (8) months will be devoted to written and oral fact discovery. The final two (2) months of this
23 period will be devoted to experts. Following the close of this initial ten-month discovery period,
24 the Parties will brief class certification. Following a ruling on class certification the Court would
25 hold a subsequent case management conference and establish a schedule for the remainder of the
26 case, including a period for any remaining merits-based discovery, and dates for summary
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judgment briefing, pre-trial conferences, and the trial.

Plaintiff and Defendant Royal Marketing propose the following case schedule.

<u>Event</u>	<u>Proposed Deadlines</u>
Motion to Amend Pleadings and/or Add Parties	120 days following a ruling on the Motion to Dismiss
Deadline to Complete Fact Discovery	8 months following a ruling on the Motion to Dismiss
Plaintiff's Expert Disclosures Due	14 days after the Deadline to Complete Fact Discovery
Defendants' Expert Disclosures Due	14 days after Plaintiff's Expert Disclosure
Rebuttal Expert Disclosures Due	14 days after Defendants' Expert Disclosures
Complete Expert Discovery	2 months after the Deadline to Complete Fact Discovery
Plaintiff to File Motion for Class Certification	30 days following the completion of Expert Discovery
Defendants to File Opposition to Class Certification	30 days after Plaintiff's Motion for Class Certification
Plaintiff to File Reply ISO Motion for Class Certification	14 days after Defendants' opposition
Subsequent Case Management Conference	TBD: to be set after a ruling on class certification

File Dispositive Motions	TBD: to be set after a ruling on class certification
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Defendant Jornaya's Position:

Defendant Jornaya's position is that, in the interests of conserving the parties' and judicial resources, discovery should not begin until after resolution of the Defendants' motion(s) to dismiss. Assuming such motions will be ruled upon by July 1, 2023, Jornaya proposes the following schedule.

<u>Event</u>	<u>Proposed Deadlines</u>
Discovery Begins	July 1, 2023
Motion to Amend Pleadings and/or Add Parties	July 29, 2023
Deadline to Complete Fact Discovery	March 3, 2024
Plaintiff's Initial Expert Disclosures Due	March 17, 2024
Defendants' Expert Disclosures Due	April 14, 2024
Rebuttal Expert Disclosures Due	April 28, 2024
Complete Expert Discovery	May 19, 2024
Plaintiff to File Motion for Class Certification (and any supporting class-certification expert reports)	June 2, 2024
Defendants to File Opposition to Class Certification (and any rebuttal class-	June 30, 2024

certification expert reports)	
Plaintiff to File Reply ISO Motion for Class Certification	July 21, 2024
Subsequent Case Management Conference	TBD: to be set after a ruling on class certification
File Dispositive Motions	TBD: to be set after a ruling on class certification

18. Trial

The Parties anticipate that a jury trial will take 5 days.

19. Disclosure of Non-party Interested Entities or Persons

Plaintiff's Position: As of the filing of this report, Plaintiff has filed her disclosure of non-party interested entities or persons.

Defendants' Position:

Royal Marketing's Position: Royal Marketing will file its Disclosure in connection with its response to the First Amended Complaint and as required by F.R.C.P. 26.

Jornaya's Position: Jornaya has filed its L.R. 3-15 Disclosure.

20. Professional Conduct

All counsel have reviewed the Guidelines.

21. Other

The parties are not aware of any other matters at this time.

Respectfully submitted,

Dated: July 21, 2023

LORETTA WILLIAMS, individually and on
behalf of all others similarly situated,

By: /s/ Patrick H. Peluso
One of Plaintiff's Attorneys

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Dated: July 21, 2023

**LEAD INTELLIGENCE, INC. D/B/A
JORNAYA**

By: /s/ Rebecca C. Harlow

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Counsel for Jornaya

Dated: July 21, 2023

DDR MEDIA, LLC d/b/a Royal Marketing Group

By: /s/ Joseph A. O'Keefe

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SIGNATURE CERTIFICATION

Pursuant to Civil L.R. 5-1(i)(3) of the Electronic Case Filing Administrative Policies and Procedures Manual, I hereby certify that the content of this document is acceptable to counsel for Defendant and that I have obtained authorization to affix his or her electronic signature to this document.

By: /s/ Patrick H. Peluso
Patrick H. Peluso

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above papers was served upon counsel of record by filing such papers via the Court's ECF system on July 21, 2023.

/s/ Patrick H. Peluso